

It is proposed that §63.41 (relating to recognition of fishing guide operations) be deleted and replaced with the following chapter.

## CHAPTER 51. ADMINISTRATIVE PROVISIONS

### Subchapter L. Charter Boat/Fishing Guide Operations

#### §51.110. Definitions.

The following words and terms, when used in this section have the following meanings, unless the context clearly indicates otherwise:

*Charter boat* – A boat operated as a commercial enterprise which carries passengers for hire for the purpose of fishing on the waters of this Commonwealth.

*Charter boat operator* – A person who operates or is in actual physical control of the movement of a charter boat.

*Commercial enterprise* – An operation where a person provides fishing guide or charter boat services in exchange for any consideration, including money, goods or services.

*Fishing guide* – A person who operates a commercial enterprise whereby he guides or leads others persons for the purpose of fishing on the waters of this Commonwealth.

#### §51.111. Permits.

(a) *Application.* A person desiring to be a charter boat operator or a fishing guide on the waters of this Commonwealth shall first make an application for a permit on the form provided by the Commission. The applicant shall submit the completed form to the Commission along with the fee specified in section 2715 of the code (relating to license, permit and issuing agent fees).

(b) *Duration.* Charter boat/fishing guide permits shall be valid for a calendar year and shall expire on December 31 of the year for which it was issued.

(c) *Renewal.* A holder of a charter boat/fishing guide permit shall apply to the Commission for renewal of the permit by completing the renewal application form provided by the Commission and by submitting it along with the appropriate fee to the Commission.

(d) *Suspension or revocation of permit.* The Commission may suspend or revoke a charter boat/fishing guide permit for noncompliance with the terms and conditions of this chapter or when the charter boat operator or fishing guide is convicted or acknowledges guilt of a violation of the code or this chapter. Suspension or revocation procedures shall comply with Chapter 51, Subchapter C (relating to suspension, denial or revocation of licenses, permits, registrations or privileges).

(e) *Prima facie evidence.* Advertising by any means, including but not limited to websites, business cards, brochures, newspapers, periodicals or billboards, that a person provides fishing guide or charter boat services shall be prima facie evidence of a commercial enterprise.

§51.112. Display of permits.

(a) *Display of permit on outer garment.* While operating a charter boat or fishing guide operation, charter boat operators and fishing guides shall display their permits on a hat or an outer garment in plain view. The charter boat operator and fishing guide may carry and display the permit in the same holder containing a fishing license.

(b) *Officers designated to check permits.* Charter boat operators and fishing guides shall present their charter boat/fishing guide permits upon the request of an officer authorized to enforce the code.

(c) *Display of decal on charter boats.* When a boat is used in the charter boat/fishing guide operation, the charter boat operator shall display a decal supplied by the Commission on both sides of the boat hull above the waterline and below the gunwale near the stern of the boat or on each side window of the cockpit of the boat. While onboard a boat displaying a decal, the charter boat operator is exempt from the permit display requirements of this section provided the permit is onboard the boat. When, due to exigent circumstances, a charter boat operator must use a boat that does not display a charter boat/fishing guide decal, the charter boat operator shall display the permit on a hat or outer garment as required by this section.

§51.113. Boating safety education.

When a boat is used in the charter boat/fishing guide operation, the charter boat operator shall possess a boating safety education certificate issued by the Commission or by another state in accordance with criteria of the National Association of State Boating Law Administrators or a boat operator's license issued by the U.S. Coast Guard. Applicants and holders of charter boat/fishing guide permits shall provide proof of certification of boating safety education upon request of the Commission.

§51.114. Insurance.

Charter boat operators and fishing guides shall possess and maintain in full force and effect general liability insurance for all periods during which they are operating a charter boat/fishing guide operation on the waters of the Commonwealth. The minimum amount of coverage shall be \$250,000 for each occurrence and \$500,000 in the aggregate. Applicants and holders of charter boat/fishing guide permits shall provide proof of insurance upon the request of the Commission.

§51.115. CPR and first aid.

Charter boat operators and fishing guides shall possess and maintain current certification in basic cardiopulmonary resuscitation (CPR) and basic first aid skills. Applicants and holders of charter

boat/fishing guide permits shall provide proof of CPR or basic first aid certification upon the request of the Commission.

§51.116. Fishing license and permits.

Charter boat operators and their crewmembers and fishing guides shall possess valid fishing licenses and the stamps and permits required for the waters in which they fish. Charter boat operators and fishing guides are responsible for ensuring that their employees, passengers and customers possess a valid fishing license and the appropriate stamps and permits.

§51.117. Compliance of laws and regulations.

Charter boat operators and fishing guides shall comply with all federal, state and local laws and regulations. Charter boat operators and fishing guides are responsible for ensuring that their employees, passengers and customers comply with all fishing and boating laws and regulations.

§51.118. Special issuing agents.

(a) The Commission may designate holders of charter boat/fishing guide permits as special issuing agents for the purpose of selling to their customers One-Day Fishing Licenses, Three-Day Tourist Fishing Licenses, Seven-Day Tourist Fishing Licenses and trout/salmon permits and special permits for fishing Lake Erie and tributaries.

(b) A holder of a charter boat/fishing guide permit may seek to become a special issuing agent by completing and submitting to the Commission an application on the form prescribed by the Commission. Applications to become a special issuing agent shall be accompanied by a bond or other security in a form satisfactory to the Commission in an amount equal to the value of the licenses, stamps and permits being requested by the applicant. The one-time, nonrefundable fee required by §51.35 (relating to operation of the issuing agency) is waived.

(c) Special issuing agents shall file quarterly reports of all fishing licenses, stamps and permits sold during the quarter in the manner determined by the Commission. Special issuing agents may file reports more frequently at the discretion of the agent.

(i) Special issuing agents shall include in their quarterly report detailed sales information and remittance for all licenses, stamps and permits sold during the reporting period.

(ii) Special issuing agents shall file their reports so that they are received in the Harrisburg office by the 15<sup>th</sup> of the month following the reportable quarter.

(iii) Special issuing agents shall file a report even if there is no sales activity to report for the quarter. Failure to file a report places the agency in a delinquent status.

(iv) Special issuing agents shall indicate their agent number on the report, as well as the remittance.

(d) Special issuing agents shall maintain a bond or other security in a form satisfactory to the Commission in an amount equal to the value of all licenses, stamps and permits they wish to possess at each location where they issue licenses, stamps and permits.

(e) Except as otherwise provided by this section, the provisions of Chapter 51, Subchapter D (relating to issuing agents) apply to special issuing agents under this section.

§51.119. Boundary waters.

(a) Residents of the Commonwealth who operate charter boats or fishing guide operations on boundary waters under the jurisdiction of the Commonwealth shall possess a resident charter boat/fishing guide permit.

(b) Non-residents of the Commonwealth who operate charter boats or fishing guide operations on boundary waters under the jurisdiction of the Commonwealth shall possess a non-resident charter boat/fishing guide permit.

(c) For purposes of this section, there shall be a rebuttable presumption that a person operating a charter boat or fishing guide operation is operating on the waters of this Commonwealth if the person uses a boat launch in the Commonwealth.